

106TH CONGRESS
1ST SESSION

H. R. 263

To amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. SHAW (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. LEVIN, Mr. SKEEN, Mr. LEWIS of Georgia, Mr. KLECZKA, Mr. HAYWORTH, Mr. HOUGHTON, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as The
5 “Structured Settlement Protection Act”.

1 **SEC. 2. IMPOSITION OF EXCISE TAX ON PERSONS WHO AC-**
 2 **QUIRE STRUCTURED SETTLEMENT PAY-**
 3 **MENTS IN FACTORING TRANSACTIONS.**

4 (a) IN GENERAL.—Subtitle E of the Internal Reve-
 5 nue Code of 1986 is amended by adding at the end the
 6 following new chapter:

7 **“CHAPTER 55—STRUCTURED**
 8 **SETTLEMENT FACTORING TRANSACTIONS**

“Sec. 5891. Structured settlement factoring transactions.

9 **“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANS-**
 10 **ACTIONS.**

11 “(a) IMPOSITION OF TAX.—There is hereby imposed
 12 on any person who acquires directly or indirectly struc-
 13 tured settlement payment rights in a structured settle-
 14 ment factoring transaction a tax equal to 50 percent of
 15 the factoring discount as determined under subsection
 16 (c)(4) with respect to such factoring transaction.

17 “(b) EXCEPTION FOR COURT-APPROVED HARD-
 18 SHIP.—The tax under subsection (a) shall not apply in
 19 the case of a structured settlement factoring transaction
 20 in which the transfer of structured settlement payment
 21 rights is—

22 “(1) otherwise permissible under applicable law,
 23 and

24 “(2) undertaken pursuant to the order of the
 25 relevant court or administrative authority finding

1 that the extraordinary, unanticipated, and imminent
2 needs of the structured settlement recipient or his or
3 her spouse or dependents render such a transfer ap-
4 propriate.

5 “(c) DEFINITIONS.—For purposes of this section—

6 “(1) STRUCTURED SETTLEMENT.—The term
7 ‘structured settlement’ means an arrangement—

8 “(A) established by—

9 “(i) suit or agreement for the periodic
10 payment of damages excludable from the
11 gross income of the recipient under section
12 104(a)(2), or

13 “(ii) agreement for the periodic pay-
14 ment of compensation under any workers’
15 compensation act that is excludable from
16 the gross income of the recipient under
17 section 104(a)(1), and

18 “(B) where the periodic payments are—

19 “(i) of the character described in sub-
20 paragraphs (A) and (B) of section
21 130(c)(2), and

22 “(ii) payable by a person who is a
23 party to the suit or agreement or to the
24 workers’ compensation claim or by a per-
25 son who has assumed the liability for such

1 periodic payments under a qualified assign-
2 ment in accordance with section 130.

3 “(2) STRUCTURED SETTLEMENT PAYMENT
4 RIGHTS.—The term ‘structured settlement payment
5 rights’ means rights to receive payments under a
6 structured settlement.

7 “(3) STRUCTURED SETTLEMENT FACTORING
8 TRANSACTION.—The term ‘structured settlement
9 factoring transaction’ means a transfer of structured
10 settlement payment rights (including portions of
11 structured settlement payments) made for consider-
12 ation by means of sale, assignment, pledge, or other
13 form of encumbrance or alienation for consideration.

14 “(4) FACTORING DISCOUNT.—The term ‘factor-
15 ing discount’ means amount equal to the excess of
16 (i) the aggregate undiscounted amount of structured
17 settlement payments being acquired in the struc-
18 tured settlement factoring transaction, over (ii) the
19 total amount actually paid by the acquirer to the
20 person from whom such structured settlement pay-
21 ments are acquired.

22 “(5) RELEVANT COURT OR ADMINISTRATIVE
23 AUTHORITY.—The term ‘relevant court or adminis-
24 trative authority’ means—

1 “(A) the court (or where applicable, the
2 administrative authority) which had jurisdiction
3 over the underlying action or proceeding that
4 was resolved by means of the structured settle-
5 ment, or

6 “(B) in the event that no action or pro-
7 ceeding was brought, a court (or where applica-
8 ble, the administrative authority) which—

9 “(i) would have had jurisdiction over
10 the claim that is the subject of the struc-
11 tured settlement, or

12 “(ii) has jurisdiction by reason of the
13 residence of the structured settlement re-
14 cipient.

15 “(d) COORDINATION WITH OTHER PROVISIONS.—

16 “(1) IN GENERAL.—In any case where the ap-
17 plicable requirements of sections 72, 130, and
18 461(h) were satisfied at the time the structured set-
19 tlement was entered into, the subsequent occurrence
20 of a structured settlement factoring transaction shall
21 not affect the application of the provisions of such
22 sections to the parties to the structured settlement
23 (including an assignee under a qualified assignment
24 under section 130) in any taxable year.

1 “(2) REGULATIONS.—The Secretary is author-
 2 ized to prescribe such regulations as may be nec-
 3 essary to clarify the treatment in the event of a
 4 structured settlement factoring transaction of
 5 amounts received by the structured settlement recip-
 6 ient.”

7 (b) INFORMATION REPORTING.—Subpart B of part
 8 III of subchapter A of chapter 61 of such Code is amended
 9 by adding at the end the following new section:

10 **“SEC. 6050T. REPORTING REQUIREMENTS REGARDING**
 11 **STRUCTURED SETTLEMENT FACTORING**
 12 **TRANSACTIONS.**

13 “(a) IN GENERAL.—In the case of a transfer of
 14 structured settlement payment rights in a structured set-
 15 tlement factoring transaction—

16 “(1) described in section 5891(b) and of which
 17 the person making the structured settlement pay-
 18 ments has actual notice and knowledge, such person
 19 shall make such return and furnish such written
 20 statement to the acquirer of the structured settle-
 21 ment payment rights as would be applicable under
 22 the provisions of section 6041 (except as provided in
 23 subsection (c) of this section), or

24 “(2) subject to tax under section 5891(a) and
 25 of which the person making the structured settle-

1 ment payments has actual notice and knowledge,
 2 such person shall make such return and furnish
 3 such written statement to the acquirer of the struc-
 4 tured settlement payment rights at such time, and
 5 in such manner and form, as the Secretary shall by
 6 regulations prescribe.

7 “(b) COORDINATION WITH OTHER PROVISIONS.—
 8 The provisions of this section shall apply in lieu of any
 9 other provisions of this part to establish the reporting obli-
 10 gations of the person making the structured settlement
 11 payments in the event of a structured settlement factoring
 12 transaction. The provisions of section 3405 regarding
 13 withholding shall not apply to the person making the
 14 structured settlement payments in the event of a struc-
 15 tured settlement factoring transaction.

16 “(c) DEFINITION.—For purposes of this section, the
 17 term ‘acquirer of the structured settlement payment
 18 rights’ shall include any person described in section
 19 7701(a)(1).”

20 (c) CLERICAL AMENDMENTS.—

21 (1) The table of chapters for subtitle E of such
 22 Code is amended by adding at the end the following
 23 new item:

“Chapter 55. Structured settlement factoring transactions.”

1 (2) The table of sections for subpart B of part
2 III of subchapter A of chapter 61 of such Code is
3 amended by adding at the end the following new
4 item:

“Sec. 6050T. Reporting requirements regarding structured settle-
ment factoring transactions.”

5 (d) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to structured settlement factoring
7 transactions (as defined in section 5891(c)(3) of the Inter-
8 nal Revenue Code of 1986) occurring after the date of
9 enactment of this Act.

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